

Before the Court is the Recommendation of Magistrate Judge Charles H. Weigle. Doc. 16. The Magistrate Judge recommends granting the Respondent's motion to dismiss the Petitioner's application for writ of habeas corpus (Doc. 1) pursuant to 28 U.S.C. Section 2254 because the Petitioner has not exhausted his "remedies available in the courts of the State." *Id.* at 2 (quoting 28 U.S.C. § 2254(b)(1)(A)). The Magistrate Judge further recommends denying a certificate of appealability. *Id.* The Petitioner has not objected to the Recommendation. The Court has reviewed the Recommendation (Doc. 16) and accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation (Doc. 16) is **ADOPTED** and made the order of this Court. Accordingly, the Respondent's motion to dismiss (Doc. 12) is **GRANTED**, and the petition (Doc. 1) is **DISMISSED** without prejudice. A certificate of appealability is **DENIED** for the reasons stated in the Recommendation (Doc. 16). Additionally, because there are no non-frivolous issues to raise on appeal, an appeal

would not be taken in good faith. See 28 U.S.C. § 1915(a)(3). Accordingly, any motion to proceed *in forma pauperis* on appeal is **DENIED**.

SO ORDERED, this 15th day of October, 2018.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT